
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA,

Plaintiff,

versus

RACHEL VALLEJO,

DEFENDANT.

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CRIMINAL ACTION H-01-704-12

Opinion

Rachel Vallejo moves again to reduce her sentence (496). Again, she does not explain why her sentence should be changed.

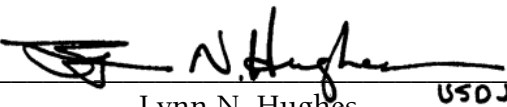
Since the adoption of the Constitution in 1789, judges have determined by a preponderance of the evidence the facts that are used to assess the particular sentence within the statutory range for the crime. Using these sentencing facts to arrive at a guideline would not change their character as long as the resulting sentence – not calculation – is within the statutory range.

Vallejo was found guilty on one count. The count has a range of punishment from twenty years to life. She was sentenced to 97 months. The sentence is below the statutory range.

Her claim is late, even if it were supported by facts. *Booker* does not extend Vallejo's period of limitations; her sentence was below the minimum guideline, not greater than the maximum.

Her petition for relief from all or part of her sentence will be denied.

Signed January 24, 2006, at Houston, Texas.



Lynn N. Hughes
United States District Judge

USDS